

House Study Bill 51 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act applying criminal trespass provisions to public utility
2 property, and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 716.7, subsection 2, Code 2011, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* Entering or remaining upon or in public
4 utility property without lawful authority or without the
5 consent of the public utility that owns, leases, or operates
6 the public utility property. This paragraph does not apply
7 to passage over public utility right-of-way by an unarmed
8 person if the person has not been notified or requested by
9 posted signage or other means to abstain from entering onto the
10 right-of-way or to vacate the right-of-way.

11 Sec. 2. Section 716.7, subsection 3, Code 2011, is amended
12 to read as follows:

13 3. The term "*trespass*" shall not mean entering upon the
14 property of another for the sole purpose of retrieving personal
15 property which has accidentally or inadvertently been thrown,
16 fallen, strayed, or blown onto the property of another,
17 provided that the person retrieving the property takes the most
18 direct and accessible route to and from the property to be
19 retrieved, quits the property as quickly as is possible, and
20 does not unduly interfere with the lawful use of the property.
21 This subsection does not apply to public utility property where
22 the person has been notified or requested by posted signage or
23 other means to abstain from entering.

24 Sec. 3. Section 716.7, Code 2011, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 5A. For purposes of this section,
27 "*public utility property*" means any land, dwelling, building,
28 conveyance, vehicle, or other temporary or permanent structure
29 owned, leased, or operated by a public utility and that is
30 completely enclosed by a physical barrier of any kind. For the
31 purposes of this section, a "*public utility*" is a public utility
32 as defined in section 476.1 or an electric transmission line as
33 provided in chapter 478.

34 Sec. 4. Section 716.7, subsection 6, Code 2011, is amended
35 by adding the following new paragraphs:

1 NEW PARAGRAPH. *d.* Representatives of the Iowa utilities
2 board, the federal energy regulatory commission, or the federal
3 communications commission who enter or remain upon or in public
4 utility property while engaged in the performance of official
5 duties.

6 NEW PARAGRAPH. *e.* Employees of a public utility who enter
7 or remain upon or in public utility property while acting in
8 the course of employment.

9 Sec. 5. Section 716.8, subsection 2, Code 2011, is amended
10 to read as follows:

11 2. Any person committing a trespass as defined in section
12 716.7, other than a trespass as defined in section 716.7,
13 subsection 2, paragraph "f", which results in injury to any
14 person or damage in an amount more than two hundred dollars
15 to anything, animate or inanimate, located thereon or therein
16 commits a serious misdemeanor.

17 Sec. 6. Section 716.8, Code 2011, is amended by adding the
18 following new subsection:

19 NEW SUBSECTION. 6. Any person who commits a trespass as
20 defined in section 716.7, subsection 2, paragraph "f", commits a
21 class "D" felony.

22 EXPLANATION

23 This bill incorporates trespassing onto public utility
24 property into the definition of "trespass" provided in Code
25 section 716.7.

26 The bill defines "public utility property" as any land,
27 dwelling, building, conveyance, vehicle, or other temporary
28 or permanent structure owned, leased, or operated by a public
29 utility and that is completely enclosed by a physical barrier
30 of any kind. The bill defines a "public utility" to include a
31 public utility as defined in Code section 476.1, which would
32 include furnishing gas, electricity, communications services,
33 or water to the public for compensation, and an electric
34 transmission line as provided in Code chapter 478.

35 The bill provides that the term "trespass" includes entering

1 or remaining upon or in public utility property without lawful
2 authority or without the consent of the public utility. The
3 bill provides an exception for passage over a public utility
4 right-of-way by an unarmed person if the person has not been
5 notified or requested by posted signage or other means to
6 abstain from entering onto the right-of-way or to vacate the
7 right-of-way. Similar provisions are contained in Code section
8 716.7 with regard to railway property.

9 The bill provides that an exception to the term "trespass"
10 for entering upon the property of another for the sole purpose
11 of retrieving personal property under specified circumstances
12 shall not apply to public utility property where the person has
13 been notified or requested by posted signage or other means to
14 abstain from entering.

15 The bill adds the Iowa utilities board, the federal energy
16 regulatory commission, the federal communications commission,
17 and public utility employees, when acting in the course of
18 their official duties, to a list of entities and individuals to
19 whom the trespass provisions do not apply.

20 The bill provides that any person who violates the bill's
21 provisions commits a class "D" felony. A class "D" felony is
22 punishable by confinement for no more than five years and a
23 fine of at least \$750 but not more than \$7,500.